

Message Text

LIMITED OFFICIAL USE

PAGE 01 TOKYO 15045 181135Z

51

ACTION A-01

INFO OCT-01 EA-06 ISO-00 FEA-01 AID-05 CEQ-01 CIAE-00

COA-01 COME-00 DODE-00 EB-04 EPA-01 INR-05 IO-10 L-02

NSF-01 NSC-05 NSAE-00 PM-03 RSC-01 OES-03 SS-15 SP-02

/068 W

----- 012184

R 181025Z NOV 74

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 6098

LIMITED OFFICIAL USE TOKYO 15045

E.O. 11652 N/A

TAGS: SENV, JA, US

SUBJECT: US-JAPAN ENVIRONMENTAL PROTECTION AGREEMENT

REF: A) TOKYO 14981, B) TOKYO 14982, C) TOKYO 11726

D) STATE 158577, E) TOKYO 9360, F) TOKYO 9083

G) TOKYO 8010, H) STATE 77399 (4/19/74)

SUMMARY: THIS TELEGRAM TRANSMITS ADDITIONAL EMBASSY COMMENTS ON THE JAPANESE GOVERNMENT'S DRAFT OF AN ENVIRONMENTAL AGREEMENT.

ACTION REQUESTED: EARLY TRANSMITTAL OF A US REPLY TO THE JAPANESE PROPOSAL. END SUMMARY.

1. ON NOVEMBER 11, THE MINISTRY OF FOREIGN AFFAIRS PASSED THE EMBASSY ITS LONG-PROMISED DRAFT PROPOSAL OF AN ENVIRONMENTAL AGREEMENT BY SEPARATE TELEGRAM (REFTELS A AND B.) THE JAPANESE DRAFT IS BASED ON THE LATEST COMPLETE US COMPILATION OF THE TEXT (REFTEL H), BUT HAS SEVERAL IMPORTANT DIFFERENCES. THESE ARE COMMENTED ON BELOW.

A. THE MOST IMPORTANT CHANGE OCCURS IN ARTICLE 4, WHERE THE JAPANESE PROPOSAL OMITS ALL REFERENCE TO THE "GUIDING PRINCIPLES CONCERNING INTERNATIONAL ECONOMIC ASPECTS OF ENVIRONMENTAL POLICIES

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 TOKYO 15045 181135Z

OF THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, "THE

PRINCIPLES COMMONLY KNOWN AS THE "POLLUTER-PAYS PRINCIPLE" OR "PPP." INSTEAD, THE NEW JAPANESE PROPOSAL REFERS ONLY TO "RECOMMENDATIONS

OF INTERNATIONAL ORGANIZATIONS TO WHICH BOTH COUNTRIES ARE PARTIES."

THE JAPANESE OBJECTIONS TO THE UNITED STATES' MORE SPECIFIC REFERENCE TO THE OECD GUIDING PRINCIPLES BOIL DOWN TO TWO POINTS: 1) REFERENCE TO ONE SPECIFIC SET OF GUIDING PRINCIPLES IS TOO SMALL AND SPECIFIC A THING TO INCLUDE IN A BILATERAL, INTER-GOVERNMENTAL AGREEMENT, AND 2) THERE IS NO PRECEDENT FOR SUCH REFERENCE IN JAPAN'S OTHER BILATERAL AGREEMENTS. THE SOURCE OF THIS OBJECTION IS THE TREATY BUREAU, THE LEGAL BRANCH OF THE FOREIGN MINISTRY, AND THE LATTER POINT (THE LACK OF PRECEDENT) SEEMS TO BE THE MAIN BASIS OF THE TREATY BUREAU'S OBJECTION TO MENTION OF THE OECD GUIDING PRINCIPLES BY NAME IN THE TEXT OF THE AGREEMENT. ALTHOUGH ARTICLE 4 IS FRAMED IN GENERAL TERMS, THE FOREIGN MINISTRY TOLD THE REPORTING OFFICER THAT IN FACT THERE ARE NO OTHER "RECOMMENDATIONS OF INTERNATIONAL ORGANIZATIONS" WHICH MIGHT BE TAKEN INTO ACCOUNT. THE FOREIGN MINISTRY ALSO REFERRED TO A FEAR THAT THE OECD PRINCIPLES MIGHT BE AMENDED. THE EMBASSY COUNTERED THIS BY POINTING OUT THE PHRASE "IN 1972," WHICH SEEMS TO PROVIDE ADEQUATE INDICATIONS OF JUST OECD PRINCIPLES ARE MEANT.

THE WORDING OF THE SECOND PARAGRAPH OF THE "AGREED MINUTES" FOLLOW VERY CLOSELY THE LANGUAGE OF TOKYO 6661, TO WHICH BOTH SIDES AGREED, AD REFERENDUM, AT THE MINISTERIAL CONFERENCE ON ENVIRONMENTAL POLLUTION IN MAY (STATE 128512). THE ECONOMIC AFFAIRS BUREAU, WHICH HAS BEEN HANDLING THE NEGOTIATIONS, DOES NOT HAVE ANY PARTICULAR OBJECTION TO SPECIFIC REFERENCE TO THE OECD PRINCIPLES. IN ADDITIONAL, THE ENVIRONMENT AGENCY HAS TOLD EMBASSY OFFICERS THAT IT COMPLETELY SUPPORTS THE OECD PRINCIPLES IN QUESTION AND IMPLIED THAT IT WOULD LIKE TO SEE THE UNITED STATES PRESS FOR RETENTION OF SPECIFIC REFERENCE TO THEM.

B. THE JAPANESE PROPOSAL DROPS FROM THE PREAMBLE THE CLAUSE BEGINNING WITH "RECOGNIZING."

C. ARTICLES 1 AND 2 ARE RE-DRAFTED, TO COVER GENERAL COOPERATION IN ARTICLE 1 AND THE POLICY-LEVEL MEETING, NOW CALLED THE JOINT PLANNING AND COORDINATION COMMITTEE, IN ARTICLE 2. IN ARTICLE 1, THE FOUR SUB-POINTS (A) THROUGH (D) ARE IDENTICAL WITH POINTS (B) THROUGH (E) OF THE US DRAFT, WITH THE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 TOKYO 15045 181135Z

EXCEPTION THAT "AND EXCHANGES" HAS BEEN RESTORED TO POINT (B).

D. ARTICLE 2 IS THE FIRST FORMAL PRESENTATION OF THE JAPANESE IDEA FOR A JOINT PLANNING AND COORDINATION COMMITTEE (JPCC), WHICH WAS FIRST BROACHED IN REFTEL (G). THIS DEVICE IS DESIGNED TO PROVIDE FOR A MEETING BETWEEN THE TWO SIDES AT LEAST ONCE A YEAR, WHILE NOT REQUIRING THAT IT ALWAYS BE HELD AT THE MINISTERIAL LEVEL. EMBASSY COMMENTS: IN VIEW OF ITS DESIRE, EXPRESSED IN THE

PAST TO AVOID ANNUAL MEETINGS (REFTEL D), THE US WILL WANT TO CONSIDER CAREFULLY THE JAPANESE PROPOSAL TO MEET " AT LEAST ONCE A YEAR." END COMMENT.

E. THE ONLY SIGNIFICANT CHANGE IN ARTICLE 3 IS THE QUESTION OMISSION OF "DEVELOPMENT OF LOW POLLUTION POWER SYSTEMS" IN THE SPECIFIC ENUMERATION OF AREAS OF POSSIBLE COOPERATION.

F. ARTICLE VII OF THE US DRAFT HAS BEEN SPLIT INTO TWO PARTS, ARTICLE 7 AND A NEW ARTICLE 8. SIMPLY BECAUSE THE SUBJECTS OF THESE TWO SENTENCES ARE COMPLETELY DIFFERENT.

G. ARTICLE 9 HAS BEEN ADDED TO PROVIDE FOR THE ORDERLY COMPLETION OF PROJECTS AND PROGRAMS IN THE EVENT OF THE TERMINATION OF THE AGREEMENT.

H. ARTICLE 10 IS SIMPLY A MORE LOGICALLY ORDERED RE-DRAFT OF THE US ARTICLE VIII. THE FOREIGN MINISTRY EXPLAINED, HOWEVER, THAT FIVE YEARS IS THE MAXIMUM TIME PERIOD FOR WHICH AGREEMENTS MAY BE MADE WITHOUT SEEKING APPROVAL FROM THE DIET.

2. IN PRESENTING ITS TEXT TO THE EMBASSY, THE FOREIGN MINISTRY EXPRESSED REGRET THAT IT HAD TAKEN SO LONG TO RESPOND.

3. EMBASSY COMMENT: THE EMBASSY UNDERSTANDS THAT, AT THE TIME OF THE MINISTERIAL CONFERENCE ON ENVIRONMENTAL POLLUTION IN MAY 1974, THE UNITED STATES WAS WILLING TO CONCLUDE THE ENVIRONMENTAL AGREEMENT WITHOUT REFERENCE TO THE OECD'S GUIDING PRINCIPLES. HOWEVER, IN VIEW OF THE US INTEREST IN GIVING THE GREATEST POSSIBLE EMPHASIS TO COMPLIANCE WITH THE OECD GUIDING PRINCIPLES, AND IN VIEW OF THE MORE OR LESS FAVORABLE ATTITUDE TOWARD THE EARLIER TEXT WHICH WAS EXPRESSED BY THE TWO JAPANESE GOVERNMENT AGENCIES MOST CLOSELY ASSOCIATED WITH NEGOTIATIONS AND ADMINISTERING THE AGREEMENT, THE EMBASSY RECOMMENDS THAT THE UNITED STATES MAKE AT LEAST ONE MORE ATTEMPT TO INCORPORATE THE OECD PRINCIPLES IN THE BODY OF THE AGREEMENT BY SPECIFIC REFERENCE TO THEM BY NAME. END COMMENT.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 TOKYO 15045 181135Z

4. THE EMBASSY WOULD APPRECIATE RECEIVING ANY COMMENTS OUR COUNTER-PROPOSALS TO BE PASSED TO THE JAPANESE.
HODGSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, ENVIRONMENT
Control Number: n/a
Copy: SINGLE
Draft Date: 18 NOV 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CollinP0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974TOKYO15045
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740332-0661
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741133/aaaabbpy.tel
Line Count: 158
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION A
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A) TOKYO 14981, B) TOKYO 14982, C) T, OKYO 11726
Review Action: RELEASED, APPROVED
Review Authority: CollinP0
Review Comment: n/a
Review Content Flags:
Review Date: 01 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 AUG 2002 by cunninfx>; APPROVED <18 MAR 2003 by CollinP0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-JAPAN ENVIRONMENTAL PROTECTION AGREEMENT
TAGS: SENV, JA, US
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005